

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VERSATA SOFTWARE INC., et al.,

Plaintiffs,

v.

2:07-CV-153 CE

SAP AMERICA, INC. and SAP AG,

Defendants.

SAP'S SECOND AMENDED JURY INSTRUCTIONS

Defendants SAP America, Inc. and SAP AG (collectively, "SAP") respectfully submit these Second Amended Proposed Jury Instructions. SAP's Second Amended Final Jury Instructions are attached as "Exhibit A."

The Court's previous instructions and verdict form in this case served as a template for SAP's proposals. The Court's previous instructions and verdict questions regarding validity are not included given the procedural posture of this case. Where non-substantive changes to the Court's previous instructions have been made those substitutions are noted in underline. Where substantive additions are requested, those additions are noted in **bold** (with the exception of the newly included Lost Profits instruction and verdict question). Where substantive deletions are requested, those deletions are noted in ~~striketrough~~. Where appropriate, SAP has included caselaw and argument supporting substantive additions and deletions.

Dated: May 12, 2011

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/ Thomas M. Melsheimer

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on May 12, 2011, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/Thomas Melsheimer

Thomas M. Melsheimer